

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

NEW ENGLAND CARPENTERS HEALTH
BENEFITS FUND; PIRELLI ARMSTRONG
RETIREE MEDICAL BENEFITS TRUST;
TEAMSTERS HEALTH & WELFARE FUND OF
PHILADELPHIA AND VICINITY;
PHILADELPHIA FEDERATION OF TEACHERS
HEALTH AND WELFARE FUND; DISTRICT
COUNCIL 37, AFSCME - HEALTH &
SECURITY PLAN; JUNE SWAN; BERNARD
GORTER; SHELLY CAMPBELL and
CONSTANCE JORDAN,

Plaintiffs,

v.

FIRST DATABANK, INC., a Missouri corporation,
and MCKESSON CORPORATION, a Delaware
corporation,

Defendants.

Civil Action: 1:05-CV-11148-PBS

Judge Patti B. Saris

**DEFENDANT MCKESSON CORPORATION'S FURTHER RESPONSE TO
PLAINTIFFS' MOTION FOR LEAVE TO FILE A REPLY**

At the November 13 hearing, the Court requested *simultaneous* submissions regarding matters raised by plaintiffs' request that the Court reconsider its August 27, 2007 Class Order. It is obvious that plaintiffs presented new matter in their November 28 filing, and thus should go without saying. The new matter presented by plaintiffs includes:

- a new 50-page declaration from Dr. Hartman and new declarations from two other declarants;
- new positions on the relationship between what TPPs pay PBMs and what PBMs pay retailers;
- new legal authority (which is miscited) on class certification and notice issues; and

- a trial “game plan” that plaintiffs did not discuss with McKesson in advance and that falsely claims McKesson has proposed 20 trial days for its case alone.

Had plaintiffs asked beforehand whether McKesson would consent to additional briefing on class issues, McKesson would have agreed to another round of simultaneous submissions. Plaintiffs instead chose to file a reply brief without first meeting and conferring, and now ask the Court to deny McKesson a response to their November 28 filing. There is no justification for the special treatment plaintiffs seek. If the Court accepts additional briefing from plaintiffs regarding McKesson’s November 28 filing, McKesson should be given the same opportunity.

Respectfully submitted,

McKesson Corporation
By its attorneys:

/s/ Lori A. Schechter
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Dated: December 6, 2007

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party through the Court’s electronic filing service on December 6, 2007.

/s/ Lori A. Schechter
Lori A. Schechter